

EXHIBIT 2

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS
EAST ST. LOUIS DIVISION**

CATHERINE ALEXANDER,

Plaintiff,

-VS-

TAKE-TWO INTERACTIVE SOFTWARE, INC.; 2K GAMES, INC.; 2K SPORTS, INC.; WORLD WRESTLING ENTERTAINMENT, INC.; VISUAL CONCEPTS ENTERTAINMENT; YUKE'S CO., LTD.; AND YUKE'S LA, INC.,

Case No. 3:18-cv-966-SMY-MAB

Defendants.

**DECLARATION OF RANDY ORTON IN SUPPORT OF DEFENDANTS TAKE-TWO
INTERACTIVE SOFTWARE, INC.; 2K GAMES, INC.; 2K SPORTS, INC.; AND
VISUAL CONCEPTS ENTERTAINMENT’S MOTION FOR SUMMARY JUDGMENT**

I, Randy Orton, declare as follows:

1. I submit this declaration in support of Take-Two Interactive Software, Inc., 2K Games, Inc., 2K Sports, Inc., and Visual Concepts Entertainment's (collectively, "Take-Two") Motion for Summary Judgment.

I. My Background

2. I am a professional wrestler with World Wrestling Entertainment ("WWE"). I have performed for WWE (and, as it was previously know, World Wrestling Federation or WWF) since approximately 2001.

3. During my career with WWE, I have been a 13 time world champion. Since winning my first world championship in 2004, I have held virtually every title in the WWE Universe including the World Heavyweight Championship, the WWE Championship, the World Tag Team Championship, the WWE Tag Team Championship, and the Intercontinental Championship. I have headlined numerous pay-per-views and live events, including WWE's premier show "WrestleMania." I am still wrestling professionally today in the WWE.

II. My Tattoos

4. I have numerous tattoos on my body. I understand that this case is about six of my tattoos (the "Tattoos").

5. My tattoos on my body are meaningful to me and reflect how I choose to present myself to the world. I've made clear to the tattooists who have inked my tattoos that I was choosing tattoos that reflect my personal expression and, in many instances, represent people or things in my life. I did not just go into a tattoo parlor and tell the tattooist to do whatever they wanted. The tattooists inking my tattoos were always aware that my tattoos would be seen in

public because I am a professional wrestler. The tattooists understood that I was a successful wrestler who would be appearing in public and in all kinds of media with my tattoos visible, including photographs, television, advertisements, and others.

6. When I got my tattoos, at no time did any of the tattooists, including Catherine Alexander who I understand filed this lawsuit, do anything to make me think that I would be limited in how and when I chose to present my body to the world. To the contrary, I felt that as the tattoos had become part of my body, I was free to go about my life without needing to ever go back to my tattooist for permission before I could be shown with my tattoos.

7. I got my first tattoo in approximately 1998, and until this lawsuit was filed in 2018, no tattooist had ever claimed that I would be restricted in how I chose to present myself. Ms. Alexander never indicated to me in any way until this lawsuit that I needed permission to be shown how I look in real life with my tattoos. I have other tattoos on my body besides the ones inked by Ms. Alexander, and no other tattooist has ever claimed that someone must pay them before showing me as I look.

III. My Tattoos That Catherine Alexander Inked

8. To the best of my recollection, Ms. Alexander inked tattoos on my body starting in approximately 2002 and ending in approximately 2008. I have not received any tattoos from Ms. Alexander since approximately 2008.

9. For each of the Tattoos inked by Ms. Alexander, I told her what I wanted inked. I decided what the tattoo would be, provided direction and ideas to Ms. Alexander for the design and the placement, and in some instances supplied pre-existing material on which the tattoo would be based.

10. For example, before Ms. Alexander ever inked my tribal tattoo on my upper back, neck and shoulders, I already had a tribal tattoo on my upper back. I initially contacted a

tattooist named Gary Glatstein who owned the tattoo parlor, Goldenlands Tattoos, in St. Louis. When we spoke, I asked him for a tribal tattoo for my upper back. Once I was happy with the way that the tattoo was going to look on my body, Daniel Daley, another tattooist at Goldenlands Tattoos, then inked the tribal tattoo on my upper back. When Mr. Daley inked my tribal tattoo, however, he did not extend it up the back of my neck and shoulders. Later, I wanted my tribal tattoo to be extended and continue up the back of my neck and shoulders. I went back to Goldenlands Tattoos and I had Ms. Alexander do this, as she was working at Goldenlands Tattoos at the time. To extend my tribal tattoo on my upper back, Ms. Alexander copied the design of my original tribal tattoo, and I directed her to continue it up my back and shoulders, using the same style that Mr. Daley had used. At my request, Ms. Alexander copied the original tribal tattoo on my upper back as closely as possible.

11. From the very first tattoo session with Ms. Alexander, she knew that I was a professional wrestler. Before I was ever tattooed by her, we specifically discussed the fact that I was a professional wrestler and that tattoos were important to me. She also knew that the tattoos she was inking would be visible when wearing the clothing that I wear for my job, and would be visible in any media, promotional materials, or merchandise that showed me.

12. At a different tattoo session, Ms. Alexander inked me with tribal tattoos on my left and right arms and forearms. Again, it was my idea to have her ink me with the same style of tribal tattoos that Mr. Glatstein and Mr. Daley originally inked on my back, and she did that.

13. After inking my tribal tattoos, Ms. Alexander inked four additional tattoos on my arms and forearms.

14. For the tattoo of the Bible verse on my right arm, I brought a piece of paper to Ms. Alexander containing the Bible verse that I wanted inked. It said: "Be sober, be vigilant;

because your adversary the devil, as a roaring lion, walketh about, seeking whom he may devour.” The Bible verse is from 1 Peter 5:8. I chose it because it was meaningful to me due to my past battles with substance abuse. She then inked it on my body.

15. For the tattoo of the dove on my left arm, I asked Ms. Alexander to ink a dove on me and make the tattoo soft and not have black tones. Ms. Alexander followed my instruction.

16. I also asked Ms. Alexander to ink a tattoo featuring a rose on my left arm. I asked Ms. Alexander to ink a tattoo that would be the only one with color on my body, as the rest of the tattoos were in black and gray. I wanted this tattoo to honor my daughter and I directed Ms. Alexander to ink my daughter’s name on the rose along with her birthday in roman numerals. Ms. Alexander followed my instruction. This tattoo has special meaning to me because it was for my daughter.

17. I also asked Ms. Alexander to ink a tattoo featuring skulls on my arms. I asked Ms. Alexander to make this tattoo in black and gray. Ms. Alexander followed my instruction.

18. It was always made clear during my tattoo sessions with Ms. Alexander that my tattoos were my personal expression and represented how I wanted to be depicted to the world. At no time during any of my tattoo sessions did Ms. Alexander say or indicate to me in any way that I would need her permission any time my likeness would be shown with my tattoos visible. She never told me that I needed to contact her before appearing in public or in any media, or before licensing my image to anyone. My understanding was that my tattoos were part of my body and I never needed to have any additional communications with Ms. Alexander about them.

19. This is consistent with my experience getting tattoos inked by other tattooists, as I’ve never had a tattooist tell me that I would need permission to be depicted in media in the way

that I look in real life, which is with my tattoos, nor have I sought their permission. Without my tattoos shown, I wouldn't look like myself and it wouldn't really be me.

IV. My Rights to the Tattoos

20. My understanding is that all of my tattoos, including the ones inked by Ms. Alexander, are part of my body and part of how I look, and that I have the right to have my tattoos visible when people or companies show what I look like. I always thought that I had the right to display and recreate my tattoos as part of the way that I look, and the right to let third parties put me in various media, like video games, merchandise, television appearances, and other creative works.

21. I am often shown in various media, like television and video games, bearing my tattoos. It has also always been my understanding that I have control over my tattoos, including the Tattoos inked by Ms. Alexander. For example, it is common knowledge that someone with a tattoo has the right to remove it, cover it up, or change it without needing the permission of the tattooist. I have never heard of anyone needing to ask the permission of a tattooist before altering their tattoos. In fact, one of the tribal tattoos that Ms. Alexander inked on my arms altered a preexisting tattoo that I had. Later, in or around 2016, I had a different tattoo artist touch up or alter all of my tattoos that Ms. Alexander inked except for the tattoo of the rose on my arm.

22. I have given the WWE the right to license my likeness to third-parties. I understand that the WWE has in turn licensed my likeness to Take-Two, and that as a result, Take-Two is allowed to depict me in their video game series, *WWE 2K*. I have worked with Take-Two to make the *WWE 2K* games realistic by posing for photographs so that Take-Two could accurately depict my body. It never occurred to me that anyone needed Ms. Alexander's permission to realistically show how I look. In the nineteen years since I've been professionally

wrestling, this case is the first time that anyone has suggested to me that I can't license my likeness without getting the permission of the tattooists who inked my tattoos.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 4th day of November, 2019.



Randy Orton